

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1636 of 1999

in

SPECIAL CIVIL APPLICATION No 8075 of 1988

DHAKESHA KISHORKUMAR

MEGHJIBHAI

Versus

DIRECTOR

Appearance:

MR PH PATHAK for Appellant

CORAM : ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and

MR.JUSTICE D.P.BUCH

Date of Order: 13/12/1999

ORAL ORDER

We have heard Mr P H Pathak, learned Counsel for the appellant and Mr Ashwin Pandya, learned Counsel for the respondents.

This appeal is filed against the dismissal of Special Civil Application No.8075 of 1988 by the learned single Judge on 26.10.1999.

2. The appellant was an employee of Mavoday Vidyalaya. Being aggrieved by the action taken against him, he had approached this Court by filing Special Civil Application No.8075 of 1988. It was admitted by issuing Rule and interim relief was also granted. At that time, the matter could not have been filed before the Central Administrative Tribunal (for short 'CAT') in view of the fact that the appellant was serving in Kendriya Vidyalaya and no Notification was issued in accordance with the provisions of The Administrative Tribunals Act, 1985 (hereinafter referred to as 'the Act') for such Vidyalayas and hence jurisdiction of this Court was not barred. It was stated however that in March, 1999, such a Notification was issued. In the light of the

provisions of Section 29 of the Act, cases which could have been instituted before the CAT could be instituted only before the CAT and any petition pending in this Court would also get transferred to CAT. Since the learned Counsel for the respondent also has stated that the petition could not have been dismissed but an order could have been passed under Section 29 of the Act transferring the petition to CAT, in our opinion, the judgment and order passed by the learned single Judge deserves to be interfered with. The impugned order of dismissal of the petition passed by the learned single Judge is hereby quashed and set aside and the matter stands transferred to CAT under Section 29 of the Act. The appeal is accordingly allowed. The order regarding vacating the interim relief also does not survive. The appeal is accordingly disposed of. No order as to costs.

13.12.99 [C K Thakker, Actg.C.J.]

msp

[D P Buch, J.]